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**APACHE COUNTY RESOLUTION NO. 95-28**

**ESTABLISHING THE APACHE COUNTY**

**LAND USE AND RESOURCE POLICY**

**AMENDING THE APACHE COUNTY COMPREHENSIVE PLAN**

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## **Part VIII--Land Use and Resource Policy**

### **PREAMBLE**

**WHEREAS**, Apache County has been granted authority to create and amend land use, resource management, and policy planning resolutions and ordinances to protect the health safety, convenience, general welfare, and natural resources of the Public, and the Apache County tax base, and

**WHEREAS**, numerous Federal and State laws provide for joint planning, consultation, coordination, and correlation with County government with respect to Federal and State regulatory actions and decisions, and

**WHEREAS**, Apache County finds that natural resource planning which is dedicated to protecting its rural lifestyle, its customs and cultural heritage, constitutional and civil rights, and economic and social stability through the conservation and wise use of its natural resources, is in the best interest of the public.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF APACHE COUNTY:**

That the attached *Land Use and Resource Policy Plan* is hereby adopted as Part VIII of the Apache County Comprehensive Plan to protect the public health, safety, convenience, general welfare, and natural resources of the County and its citizens, and the Apache County tax base.

**BE IT FURTHER RESOLVED**, that all Federal and State agencies, commissions, committees, and political subdivisions proposing to undertake any activities or decisions which may directly or indirectly affect the quality of the human environment in Apache County, as defined in this resolution, are called upon to comply with the requirements of all Federal and State laws providing for cooperation, consultation, coordination, and correlation with the County and cooperate to the fullest extent possible in the implementation of:

- The Apache County Environmental Planning and Review Process contained in this plan; and,
- The remainder of the Apache County Land Use and Resource Policy Plan, to the full extent that it applies.

#### **FINDINGS OF THE APACHE COUNTY BOARD OF SUPERVISORS**

In an effort to ascertain the concerns of the Citizens of Apache County concerning the use and preservation of natural resources within the County, a number of public forums were held in 1994. As a result of these forums, numerous issues and concerns were identified. A summary of these findings is found in Appendix 3. Based upon this public input, and upon facts concerning the human environment in Apache County, the following findings are formally declared:

(1) A significant percentage of the land in Apache County is administered by Federal and State agencies.

(2) A viable and sustainable economy is essential for the continued health and welfare of Apache County's communities, social well-being, and culture.

(3) A direct correlation exists between the lack of a stable economy and increases in crime and a decline in the social well-being and overall stability of the residents of Apache County.

(4) Apache County's economy depends on activities and enterprises that occur on Federal and State lands, including, but not limited to, timber harvesting, livestock grazing, mineral development and recreation.

(5) State and Federal agencies are required under their respective laws, regulations, and policies to provide early consultation and planning coordination, and correlation with Apache County. It is intended that coordination, consultation, and correlation occur for all actions that may adversely or positively impact the human environment in Apache County.

(6) Arizona law grants the Apache County Board of Supervisors the authority to plan for the conservation of natural resources in the County and the protection of the "health, safety, convenience, and general welfare...." of Apache County.<sup>1</sup> Pursuant to this chapter and consistent with Federal and State laws, regulations, and policies, Apache County should be consulted at the earliest possible moment by each and every Federal agency whose decisions, activities, or other actions may affect Apache County or its residents.

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<sup>1</sup>A.R.S. §11-806 (B)

(7) Apache County recognizes that Federal agencies retain the final authority within their Federal jurisdiction. However, Federal laws and regulations do require consultation and coordination in planning and environmental review processes with Apache County, set forth in Appendix 1, attached hereto and incorporated into this Resolution.

(8) State laws expressly provide for consultation with Apache County. State law also authorizes State agencies to enter into Memoranda of Understanding, Intergovernmental Agreements, or Delegation Agreements to provide a means for intergovernmental coordination and cooperation. A listing of State laws and regulations are also set forth in Appendix 1, attached hereto and incorporated into this resolution.

### **OBJECTIVES**

(1) The objectives of the Apache County Land Use and Resource Policy are hereby declared to be:

(a) To disclose to the public, Federal and State agency decision makers, and to Apache County officials, the potential impact of any proposed Federal or State agency action on the human environment in Apache County as defined in this plan.

(b) To identify and implement ways to avoid or reduce adverse impacts to Apache County interests by mitigation as defined in 40 CFR 1508.20, and all other laws, rules, and regulations, or informal negotiations if possible.

(c) To promote inter-governmental coordination, consultation, and correlation to reduce duplication of planning efforts and to provide for more comprehensive planning of lands and resources to improve the quality of the human environment as defined in Section A(3).

(d) To enhance public education and participation in the planning process.

(e) To facilitate Apache County's ability to plan and manage its tax base, physical resources, and support environmental, social, cultural, and community values for the well-being of present and future generations in Apache County .



## SECTION A: DEFINITIONS

(1) **"The Board"** means the Apache County Board of Supervisors.

(2) **"Environmental assessment"** mean a concise public document that serves to briefly provide sufficient evidence and analysis for determining whether a proposed regulatory action will affect the human environment in Apache County.

(3) **"Fiscal resources"** means resources of the county such as its tax base, revenue generation ability, or debt capacity.

(4) **"Human environment"** means the physical, natural, social, cultural, civil, and economic environment that reflects the need to assure safe, healthful, productive, aesthetic, and culturally-pleasing surroundings, protect the health of ecosystems, provide for the widest range of beneficial uses, preserve the important customs and cultures of the citizens in Apache County and protect the civil and property rights of Apache County residents.

(5) **"Joint planning"** means a cooperative process between the County and state or federal agencies with respect to decisions affecting the use, preservation or allocation of natural resources within the County. The purpose of joint planning is to provide agency decision makers with input from the County on proposed Federal or State decisions which could affect the human environment. Joint planning, in accordance with the National Environmental Policy Act, is intended to reduce duplication of effort and provide for a more comprehensive Record of Decision.

(6) **"Joint public hearings"** means multi-agency hearings, in compliance with Arizona open meeting laws, concerning natural resource issues of common concern between Apache County and state and federal agencies wherein the structure and purposes of the

hearings are agreed upon between the County and State or federal agencies. Such joint public hearings are intended to ensure the inclusion of local public input into agency decisions, and to provide a more thorough and economical means of soliciting and obtaining public input on natural resource issues.

(7) **"Joint public meetings"** means multi-agency meetings, in compliance with Arizona open meeting laws, concerning environmental issues of common concern between Apache County and state and federal agencies, wherein the structure and purposes of the hearings are agreed upon between the County and State or Federal agencies. Such joint public meetings are intended to ensure the inclusion of local public input into agency decisions, and to provide a more thorough and economical means of soliciting and obtaining public input on issues of mutual concern.

(8) **"Mitigation"** means any of the following in order of priority: (a) avoiding an impact altogether by not taking a certain action, (b) minimizing impacts by limiting the degree or magnitude of the action (c) rectifying the impact by repairing or rehabilitating or restoring the affected environment (d) compensating for the impact by replacing or providing substitute resources.

(9) **"Natural resources"** means any material supplied by nature used in the production of goods and services, and includes, but is not limited to, mineral deposits, water, waterpower, fish, game and other wildlife, timber, wood pulp, fuelwood, grass, and other food sources consumed by either man or animal.

(10) **"Protectable interest"** includes any interest in property including but not limited to permits, leases (including grazing leases), licenses, contracts, agreements,

easements or preference rights.

(10) "Significant adverse impact" means any impact from a potential or proposed federal or state agency decision which could directly or indirectly adversely affect the human environment in Apache County.

**SECTION B:       ROLE   OF   THE   APACHE   COUNTY   BOARD   OF  
SUPERVISORS:**

(1) Upon determining that a potential State or Federal decision may affect the human environment in Apache County, the Apache County Board of Supervisors, may enter into memoranda of understanding, intergovernmental agreements for joint planning and preparation of environmental assessment and impact review documents. The joint planning process shall incorporate the planning steps outlined below:

(a) **The Assessment of the Human Environment:** Environmental effects in Apache County include effects upon customs and cultures, property rights of the people affected by proposed actions, civil rights, the production of goods and services , cultural values, economic stability, ecosystem health and the County tax base.<sup>2</sup> Any such assessment may also address the following issues:

(i) The resources and economic productivity necessary to support family stability and avoid community stress and breakdowns

(ii) Any Impact from loss of existing population

(iii) Impacts on Apache County's ability to perform its governmental and fiscal responsibilities.

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<sup>2</sup>Appendix 2, Section B: Environmental Assessment Guidelines is attached and incorporated into this resolution.

**(b) Comparative Evaluation of Alternatives:** Any planning process discusses a range of alternatives to Federal proposed actions that could feasibly attain the basic project proposal objectives. It also evaluates the comparative merits of each alternative. The Board is to evaluate proposed Federal and State actions using the criteria set forth in Subsection (a), above.

**(c) Mitigation Planning:** As a process designed to solve problems involving alternative uses of available resources, and eliminate or minimize adverse impacts on the human environment (also required by NEPA<sup>3</sup>), mitigation planning is a central component of any environmental review process. The Apache County mitigation planning and monitoring process is described in Appendix 2, which is attached and incorporated into this resolution.

**(d) Implementing and Monitoring the Resource Decision:** Monitoring shall be provided by the lead and cooperating agencies to assure that decisions are implemented in compliance with the mitigation plan.<sup>4</sup> In implementing decisions, the Board may:

**(i) Discourage agencies from approving or implementing projects with adverse impacts on the human environment **when feasible alternatives and mitigation measures can substantially eliminate or lessen the impacts.****

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<sup>3</sup>NEPA (102)(2)(e)

<sup>4</sup>40 CFR §1505.3

(ii) Include appropriate conditions in grants, permits or other approvals and condition funding of grants, permit, or other approvals on mitigation.

(iii) Request as part of any resource decision that a decision must be totally funded, including mitigation, or not funded at all, and therefore, not implemented. When it becomes apparent that project funding is insufficient, then the lead agency(s) shall re-analyze the particular funding as well as modify or change the original action(s) in the decision document, pursuant to NEPA.

(iv) Include features of an effective monitoring and feedback program.

**SECTION C: JOINT PLANNING WITH FEDERAL AGENCIES.**

**(1) Purpose:** The primary purpose of joint planning is to provide agency decision makers with input from the government entities affected by a proposed Federal decision. Coordinated and joint planning is intended to reduce duplication of effort and provide for a more comprehensive **Record of Decision** (as specified in 40 CFR §1506.2) to include:

- Joint preparation of environmental documents
- Joint public hearings
- Joint planning processes (which include joint public meetings)
- Joint environmental research

**(2) Criteria for Initiating Joint Planning with Federal Agencies:** Apache County shall identify the potential adverse impacts on the human environment of proposed Federal actions, as defined by this ordinance and set forth in the triggering criteria listed below. If Apache County initiates joint planning, the process outlined in Section A (1) shall be followed by the County. Furthermore, joint planning and coordination efforts shall be initiated according to the following triggering criteria:

**(a)** When a proposed action(s) may have adverse or positive impacts on the human environment of Apache County, as defined by this ordinance.

**(b)** When a proposed action(s) may adversely or positively impact the health, safety, convenience, general welfare, or natural resources of Apache County and its citizens pursuant to A.R.S. 11-806(B) and 40 CFR 1508.27(b).

(c) When a proposed action(s) may impact the fiscal resources of Apache County , or its infrastructure support to Federal resource agencies, such as roads, schools, emergency services, and other public works. Impacts on Apache County infrastructure can in turn result in significant impacts on the physical environment of Federal lands, and the need for an environmental assessment. These revenue sources include, but are not limited to, the following Federal laws:

(i) Taylor Grazing Act, 43 U.S.C. 415g; Federal Land Policy and Management Act, 43 U.S.C. 1753(g);

(ii) Payment In Lieu of Taxes, 32 U.S.C. 6901-6906;

(iii) Mineral Leasing Act, 30 U.S.C. 191, 192; Potassium Leasing Act, 30 U.S.C. 286;

(iv) Mineral Leasing Act, 30 U.S.C. 355;

(v) Twenty-five Percent Act, 16 U.S.C. 500.

(d) When proposed Federal actions result in unfunded mandates that may adversely affect Apache County fiscal management.

(e) When a proposed action(s) may adversely or positively affect social and economic activities, property rights and investments that in turn provide support to Federal resources and land management. Much of the Federal lands water developments in Apache County were developed and are maintained by private ranchers. Federal proposed actions could have direct adverse impacts on a rancher's ability to maintain water sources for wildlife.



It could also indirectly affect the ranch operations which would have negative affects on Federal resource management, causing a significant impact on the physical environment.

(f) When a proposed action(s)"significantly" affects "critical elements of concern" as defined in 40 CFR 1508.27(b).

(g) When the proposed Federal action threatens a violation of Apache County environmental or resource laws.<sup>5</sup> (NEPA 40 1508.27(b)).

**(3) Consistency:** The Apache County Environmental Planning and Review process for coordinated planning with Federal agencies shall, to the fullest extent possible, be consistent with the primary Federal decision making process specified in the Council on Environmental Quality (CEQ) regulations.<sup>6</sup> Furthermore, in the event that environmental review and documentation are initiated or required by both Apache County Resolution and the respective Federal or State agency(ies), the Apache County Board of Supervisors shall call upon the agency(ies) to prepare a combined document to be coordinated and jointly prepared.

**(4) Joint Preparation of Environmental Assessment Documentation:** When deemed appropriate, Apache County shall pursue the establishment of a coordinated environmental assessment planning process by memorandum of understanding or intergovernmental agreement for Federal actions and plans within the Apache County to enhance the human environment. Within the requirements of this resolution and Federal

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<sup>5</sup>40 CFR 1508.27(b)

<sup>6</sup>40 CFR §1506.2

laws<sup>7</sup>, agencies are called upon to work jointly with Apache County when appropriate, to identify and conduct physical, social, cultural, civil rights and economic impact analyses and to reduce or eliminate significant adverse impacts and promote positive impacts on the human environment. The Board shall use the environmental assessment process detailed in this resolution, and so notify the initiating Federal agency (see Appendix 2 for a detailed guide).

The Department of Development and Community Services shall be considered the cooperating or joint lead agency with one or more Federal or State agencies, pursuant to CEQ regulations, as set forth in 40 CFR 1506.2 (c), and shall prepare all environmental documents.<sup>8</sup>

**(5) Environmental Assessment Documentation Requirements:** Apache County environmental assessments shall include the requirements of this resolution, paralleling NEPA documentation requirements<sup>9</sup>. The format shall be the **Informal Letter, Initial Assessment Review (IAR)** or the detailed **Environmental Impact Review (EIR)** attached as Appendix 2, and incorporated into this resolution.

**(6) Funding:** Although Apache County may contribute funding, the Funding

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<sup>7</sup>40 USC §4331(B)(2)(4), §4332(2)(C)(I)-(V) and (2) (G), 40 CFR §1501.2(d)(c); §1502.6(b)(4) & (c).

<sup>8</sup>This section states:

***Where States and local resolutions have environmental impact Statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. 40 CFR 1506.2 (c)***

<sup>9</sup>42 USC §4332(2)(c), NEPA §102(2)(c); 40 CFR §1508.9, §1508.11

required for combined planning efforts does not constitute a financial obligation on behalf of Apache County .

**(7) Joint Public Hearings:** Federal and State agencies shall be called upon to conduct joint public hearings "...to the fullest extent possible" in accordance with NEPA requirements.<sup>10</sup>

**(8) Joint Planning Processes:** For coordinated resource, project and program planning, the National Environmental Policy Act (NEPA), National Forest Management Act, and Federal Land Policy and Management Act require that the Apache County Board of Supervisors be notified and consulted at the earliest time possible in the planning process and that Federal agencies, to the fullest extent possible, cooperate with Apache County in joint planning activities<sup>11</sup>. Following notification, the Apache County Board of Supervisors shall make a formal decision as to whether to pursue intergovernmental coordinated planning. Unless otherwise stipulated by the Board, the County's approach to intergovernmental resource planning shall follow the outline in (9) below. .

**(9) Joint Resources and Environmental Research:** Because of the nature of mixed land jurisdictions in the County , the Board may call upon Federal and State agencies to coordinate resource management policies and plans to encourage individual land stewardship and to assist in environmental quality planning and management, under the Joint Environmental Research clause of NEPA.

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<sup>10</sup>40 CFR 1506.2(b)(3)

<sup>11</sup>40 CFR §1506.2(b); 32 USC § 1604(F)(5), 36 CFR § 219.1; 43 USC 1712

The purpose of intergovernmental resource planning between Apache County , State, and Federal agencies is to develop an integrated approach to resource planning and management through coordinating the development of resource planning and management approaches that support the human environment of Apache County, while recognizing the value of natural resources and wildlife.

#### **SECTION D: JOINT PLANNING WITH STATE AGENCIES**

(1) The Board is further authorized to enter into **memoranda of understanding** or **intergovernmental agreements** to assure effective coordination, consultation, and correlation with State agencies, commissions, and political subdivisions whose regulatory actions or decisions may affect the human environment in Apache County. Such agreements should provide for information exchange, coordinated planning, public hearings, and environmental, social, cultural, civil rights, and or economic assessments when necessary. They should also attempt to foster a cooperative spirit for the purpose of preserving the cultures and customs and further ensure the continued stability of the communities, economy, and tax base of Apache County.

#### **SECTION E: EXCLUSIONS**

(1) In that a primary purpose of this process is to protect private property rights. Nothing in this resolution shall be construed to extend regulation by Apache County to private property or to private businesses.

**SECTION F: CITIZEN INVOLVEMENT**

(1) The Apache County Board of Supervisors may appoint volunteer advisory committees, to provide citizen input concerning the implementation of this resolution. In addition, the Board may provide additional opportunities for public involvement as set forth in Appendix 2 : Public Involvement guidelines.

**SECTION G: SEVERABILITY**

(1) In the event any court of competent jurisdiction rules any provision hereof to be invalid, the remainder of this resolution shall be severed therefrom and shall remain in full force and effect.

**SECTION H:            RECORDING AND AUTHENTICATION**

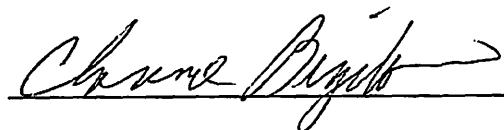
(1) This resolution shall be recorded in the books kept for that purpose and shall be authenticated by the signatures of the Chair of the Board and the Clerk of the Board and shall take affect upon date of adoption.

ADOPTED this 1<sup>st</sup> day of August 1995.

A handwritten signature in cursive script, appearing to read "Arthur N. Lee", is written over a horizontal line.

Arthur N. Lee, Chairman

Attest:

A handwritten signature in cursive script, appearing to read "Clarence Bigelow", is written over a horizontal line.

Clarence Bigelow, Clerk of the Board

# **Appendix 1**

## **Federal and State Laws and Regulations Providing For Cooperation With Apache County Government**

The following Federal laws and regulations require Federal agencies to consult, cooperate, coordinate, or correlate with State and local governments or the public.

### **1. National Environmental Policy Act ("NEPA"), 42 U.S.C. §4331, 40 C.F.R. §1506.6:**

- a. Congressional Policy declares...that it is the continuing policy of the Federal Government, in cooperation with State and local governments, ...to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may...assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings;"<sup>i</sup> and "...preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice." 42 USC 4331 (B).
- b. Prior to making any detailed Statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law

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<sup>i</sup> 42 USC 4331(b)(2).

or special expertise with respect to any environmental impact involved. Copies of such Statement and the comments and view of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes; 42 USC 4332 (2).

- c. Make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment; 42 USC 4332 (2).
- d. Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include: 40 CFR 1506.2 (a) and (b):
  - (1) Joint planning processes.
  - (2) Joint environmental research and studies.
  - (3) Joint public hearings.
  - (4) Joint environmental assessments and impact reviews.

## **Appendix 1-2**



- e. Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law... such cooperation shall to the fullest extent possible include joint environmental impact Statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact Statement requirements in addition to...those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. 40 CFR 1506.2 (c).
  
- f. To better integrate environmental impact Statements into State or local planning processes, Statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not Federally sanctioned). Where an inconsistency exists, the Statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. 40 CFR 1506.2 (d).

2. **Intergovernmental Cooperation Act**, 3 U.S.C. §§301, 42 U.S.C. §4231(a), provides that Federal agencies are to coordinate programs and plans with State and local governments. *See also* Presidential Executive Order 12372 (July 14, 1982).

### **Appendix 1-3**

**3. Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. §§ 1701, et seq.,**

- a. "The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State and local governments and the public adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands." 43 U.S.C. § 1712(f).
- b. Coordination with local government is required in addition to public involvement by regulation for development of land use plans, guidance and revision or amendment of plans. 43 C.F.R. § 1610.3.
- c. In exercising his authorities under this Act, the Secretary by regulation shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands." 43 U.S.C. § 1739(e).
- d. "The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the

National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act." 43 U.S.C. § 1740.

**4. National Forest Management Act ("NFMA"), 16 U.S.C. §§ 1600 et. seq. ,**

- a. "In developing the reports required under subsection (b)[Resource Planning Assessments] of this section, the Secretary shall provide the opportunity for public involvement and shall consult with other interested governmental departments and agencies." 16 U.S.C. § 1601(c).
- b. "The Secretary shall provide for public participation in the development, review, and revision of land management plans including, but not limited to, making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions." 16 U.S.C. §1604(d).
- c. National Forest System land use planning is implemented in 36 C.F.R. Part 219.
  - (1) Public involvement in land use planning, 36 C.F.R. § 219.6.

(2) Coordination with other public planning efforts, 36 C.F.R. § 219.7. Requires Forest Service to coordinate National Forest planning with that of other State and local governments and Indian tribes. In doing so, Forest Service officer must consider respective land use planning objectives, assess inter-related impacts, determine how the National Forest plan should address such impacts, and identify conflicts and alternatives to resolve such conflicts. 36 C.F.R. § 216.7(c).

(3) Supervisor required to meet with State and local governments and Indian tribes to discuss procedures for coordination. 36 C.F.R. § 219.7(d).

(4) Research needs in developing forest plan are to be coordinated with State and local government and Indian tribes. 36 C.F.R. § 219.7(e).

- d. Amendments to NFMA plans require public notice as well. 16 U.S.C. § 1604(f)(4).
- e. Resource planning regulations are to follow the Administrative Procedure Act (APA) requiring notice and public comment. 16 U.S.C. § 1604(g).
- f. "In carrying out this subchapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State and private organizations and shall avoid duplication and overlap of resource assessments and program planning efforts of other Federal agencies." 16 U.S.C. § 1610.

- g. "In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State and local governments and the public adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs." 16 U.S.C. § 1612(a).
- h. Public involvement in all Forest Service decisions, 36 C.F.R. Part 216, implements 16 U.S.C. § 1612 of NFMA.
  - (a) Exempts from public notice and comment manual direction on personnel, contracting and routine business operations. 36 C.F.R. § 216.3(a)(3).
  - (b) Notice of new direction or guidelines based on level of interest and impact, 36 C.F.R. § 216.4.
- i. Secretary has authority to create advisory boards necessary "to secure full information and advice on the execution of his responsibilities." 16 U.S.C. § 1612(b).
- j. Secretary is to implement NFMA through rule making with notice and public comment pursuant to Administrative Procedure Act (APA). 16 U.S.C. § 1613.

## **Appendix 1-7**

k. Other Forest Service Regulations:

Community Stability, 36 C.F.R. § 221.3. "Management plans for national forest timber resources shall . . . Be designed to aid in providing a continuous supply of national forest timber for the use and necessities of the citizens of the United States."

Cooperation With Counties, Letter From Jack Ward Thomas to Forest Supervisors and District Rangers. "Each of you should.....offer to attend any meetings of that body where you can provide insight or information that might be helpful in their deliberations. They should, of course, receive invitations to attend any public hearings that you may initiate and to participate in planning activities as appropriate.

"You should offer to brief to the board of supervisors at least biannually, on national forest activities within their county. The board of supervisors should be informed expeditiously and routinely of any Forest Service actions in which they may be interested."

5. **Endangered Species Act**, 16 U.S.C. § 1533.

- a. "With respect to any regulation proposed by the Secretary to implement a determination, designation or revision referred to in subsection (a)(1) or (3) [listing or critical habitat], the Secretary shall-- . . . give actual notice of the proposed regulation (including complete text of the regulation) to the State agency in each

State in which the species is believed to occur, and to each County or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;" 16 U.S.C. § 1533(b)(5)(A)(ii);

(1) 50 C.F.R. §§ 424(c)(ii); 424(c)(iii);

(2) Public comment of at least 60 days from F.R. and 30 days in all other rules. 50 C.F.R. 424.16(c)(2);

(3) Public hearings if requested. 50 C.F.R. 424.16(c)(3).

b. The Secretary shall prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan." 16 U.S.C. § 1533(f)(4).

c. Guidelines for classifying petitions and review of potentially threatened or endangered species shall have public notice and opportunity for comment. 16 U.S.C. § 1533(h).

- d. Secretary is to cooperate with the States "to the maximum extent practicable." 16 U.S.C. § 1535(a). This includes signing cooperative agreements and working with State fish and wildlife programs.

6. **Administrative Procedure Act ("APA")**, 5 U.S.C. § 553, requires notice and comment of proposed regulations.

7. **Clean Water Act**, 33 U.S.C. §§ 1251, et seq.

- a. "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the States to prevent, reduce and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources and to consult with the Administrator in the exercise of his authority under this chapter." 33 U.S.C. § 1251(b).
- b. "Public participation in the development, revision, and enforcement of any regulation, standards, effluent limitations, plan or program established by the Administrator or any State under this chapter, shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and public regulations specifying minimum guidelines for public participation in such process." 33 U.S.C. § 1251(e).



c. "It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this Chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources." 33 U.S.C. § 1251(g).

d. "The Administrator, shall, after careful investigation and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved prepare or develop comprehensive for preventing, reducing or eliminating the pollution of the navigable waters and ground waters and improving the sanitary conditions of surface and underground waters." 33 U.S.C. § 1252(a).

**8. Resource Conservation Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 et seq.**

a. State solid waste regulatory programs authorized. 42 U.S.C. §6926.

b. State underground storage tank programs authorized. 42 U.S.C. § 6991(c).

**9. Clean Air Act, 42 U.S.C. §§ 7401, et seq.**

- a. Public involvement in preparation of State and regional implementation plans, 42 U.S.C. § 7410.

**10. Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601, et seq.**

**11. Community Right to Know, 42 U.S.C. §§ 11001 et. seq., implements broad authority to inform members of the public regarding the existence or presence of regulated substances.**

**12. Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§1533-1534.**

- a. Calls upon Federal agencies to allow local governments "...to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates;...." Further, it requires Federal agencies to "...inform, educate, and advise small governments on compliance with the requirements, 2 U.S.C. §1533 ."
- b. Calls upon agencies to "...develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of

regulatory proposals containing significant Federal intergovernmental mandates." Further, this section exempts County officials from the Federal Advisory Committee Act (FACA) when meetings are government to government, and are intergovernmental in scope and responsibility, 2 U.S.C. §1534. ,

## **II. ARIZONA STATE LAWS AND REGULATIONS PROVIDING FOR CONSULTATION WITH APACHE COUNTY GOVERNMENT.**

The following Arizona State laws provide for State agencies or commissions to consult with local governments or to provide notice.

A.R.S. §11-806 (E)- "The (planning and zoning) commission may also confer from time to time with governing bodies and planning commissions of cities and towns in the county..." to coordinate planning and zoning and best protect the health, safety, and welfare "...of the public".

A.R.S. §17-231 (B) (7)- The Arizona Game and Fish Commission is allowed to "Enter into agreements with the federal government, other states or political subdivisions of the state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and expend funds for carrying out such agreements."

A.R.S. §37-132 (A) (3)- The State Land Commissioner is required to "Make long-range plans for the future use of state lands in cooperation with other state agencies, local planning authorities and political subdivisions."

A.R.S. §45-105 (A) (8)- Allows the County to enter into an interagency agreement or contract with the Arizona Department of Water Resources "to carry out the provisions and purposes of this title".

A.R.S. §45-105 (B) (4)- Allows the County to coordinate, confer, and contract with the Arizona Department of Water Resources "...with respect to matters within their jurisdiction relating to surface water and groundwater and the development of state water plans."

A.R.S. §45-1941 (A)- The Water Augmentation Authority is required to "...cooperate, coordinate and confer with the director of water resources, state agencies, special, authorities and other political subdivisions of this state and the United States with respect to matters within their jurisdiction relating to augmenting the water supplies of the county in which the authority is established and developing state water plans."

A.R.S. §49-104 (A) (2)- The Department of Environmental Quality is required to "Stimulate and encourage all local, state regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons, and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

A.R.S. §49-104 (A) (3)- The Department of Environmental Quality is required to "Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives."

A.R.S. §49-104 (A) (4)- The Department of Environmental Quality is required to "Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department."

A.R.S. §49-121 (G) (2)- The Commission on the Arizona Environment is required to "Facilitate the coordination of public awareness programs regarding the social, economic, recreational and ecological aspects of the Arizona environment."

## **Appendix 2**

### **Environmental Review Process Guidelines**

#### **SECTION A: ANALYSIS & DECISION DOCUMENTATION**

In the Apache County Environmental Review Process, three classes of environmental assessment reports may be used: Informal letters, Initial Assessment Reports (IAR), and Environmental Impact Reports (EIR). Each of the three formats are described below:

**1. Informal Letters:** Informal letters shall be used to document discussions of possible impacts, and for decisions of proposals categorically excluded from NEPA assessments, and for planning activities establishing or refining management objectives, future desired conditions, or identifying or rejecting future management needs or proposals. The activities appropriate to Informal Letters are usually those preceding formal proposals or projects requiring NEPA assessment.

**2. Initial Assessment Reports (IAR):** Initial Assessment Reports (IAR) shall be prepared at the request of the Board when there is an indication that there may be a negative effect on the environment (physical, social/cultural, property rights, and economic factors). The IAR is similar to NEPA Environmental Assessment (EA) planning and documentation<sup>1</sup>. There is no standard format required, but the IARs should include the following information:

- a. project description
- b. environmental setting

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<sup>1</sup>40 CFR §1501.3, §1508.9 & 10

- c. local citizens values and management objectives
- d. economic production thresholds for the area(s) involved
- e. potential environmental impacts
- f. mitigation measures
- g. decision implementation and monitoring

**3. Environmental Impact Review (EIR):** Based on IAR findings, the Board shall make its determination whether to prepare a more formal and detailed EIR. The EIR is similar to NEPA Environmental Impact Statement (EIS) planning and documentation<sup>2</sup>. According to NEPA requirements, the EIR shall consider all reasonable alternatives to the proposed action with the goal of finding the alternatives with the least adverse environmental impacts in relation to its benefits.

The purpose of an EIR is to identify the significant effects of a project on the environment (natural, social, cultural, property rights, and economic factors), identify alternatives to the project when there is a negative affect, especially on the health, safety, and livelihood (economic well-being) of Apache County citizens, and to indicate the manner in which those significant effects can be mitigated or avoided. Information developed in individual EIRs shall be incorporated into a database which can be used to reduce delay and duplication in preparation of subsequent environmental impact reports. The contents of the EIRs shall be as follows:

- A. Table of Contents
- B. Summary
- C. Project Description
- D. Environmental Setting

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<sup>2</sup>40 CFR §1501.4, §1508.10 & 11



E. Management Objectives (as described above).

F. Future Desired Conditions.

G. Environmental Impacts

1. Assessment of Impacts on the Physical Environment
2. Assessment of Impacts on the Social/Cultural Fabric.
3. Assessment of Impacts on the Economy.
4. Assessment of Impacts on Property Rights
5. Assessment of Impacts on Civil Rights
6. Assessment of Impacts on Existing Laws, Regulations, Plans, and Guidelines
7. Cumulative Effects Analysis.

H. Mitigation Plans

I. Alternatives

J. Public Involvement Requirements.

K. Target Time Frames.

L. Implementing and Monitoring the Decision

## **SECTION B: ENVIRONMENTAL ASSESSMENT GUIDELINES**

This section specifies the necessary elements of those assessments required in an Environmental Impact Review. As a general requirement, each assessment shall include "direct effects... (and) "indirect effects and their significance." Federal agencies are requested to consider these effects<sup>3</sup>.

**1. Assessment of Impacts on the Physical Environment:** The environmental impact assessments shall include identification of any effects on the Apache County 's natural resource assets and environmental quality:

- a. effects on range & forest resources.
- b. effects on mineral resources.
- c. effects on ground and surface water resources.
- d. effects on environmental quality; air, water, energy, soils, etc.
- e. effects on the productive harmony of the natural and human environments.

**2. Assessment of Impacts on the Social and Cultural Fabric:** This assessment shall include identification of any effects on Apache County customs, culture, social fabric, governance, schools, and other local programs.

- a. effects on family stability, symptoms of stress, anxiety, breakdown, and, the nature and frequency of anti-social behavior.
- b. effects on culture due to population loss and identification of the effects on the rates and magnitude of population migration patterns.

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<sup>3</sup>40 CFR §1502.16(a),(b),(c),(h), §1508.8; Federal Register vol 57, no. 182 (9/18/92), §11.31(b)

c. effects on shared norms and values to include (1)scope and intensity of demonstrated support or opposition to the proposed action, (2)religious and/or cultural orientations toward certain sites or resources, and, (3)attitudes toward economic stability and development.

d. effects on the cultures of Apache County , specifying possible limitations and restrictions on cultural beliefs and customary land uses and practices, maintenance of community cohesion and kinships and friendship networks, and traditions of mutual trust and aid.

e. effects on cultural values of land stewardship and community environmental values and aesthetics related to historical/cultural sites, natural resource vistas, river ways, and landscapes. Effects on resource degradation and investments on private land uses and historical and cultural sites.

f. effects on social organization to include community cohesion, community stability, and source and focus of leadership.

g. effects on public land use patterns to include (1)existing land uses and interactions, (2)access and transportation impacts, (3)compatibility of proposed changes with present uses of commensurate and adjacent lands, and (4)religious and cultural uses of land resources.

h. effects on Apache County 's ability to protect the health, safety, convenience and welfare of the public

i. effects on government service delivery and school programs.

## **Appendix 2-5**

j. effects on emergency services activities such as law enforcement, fire and ambulance services.

k. effects on Apache County's transportation infrastructure, environmental service delivery (landfills, waste, and Apache County financed infrastructure services to public land agencies.

**3. Assessment of Impacts on the Local Economy:** These assessments shall identify effects among impacted sectors of Apache County's economy. These include:

- a. effects on Apache County's ability to finance public programs.
- b. effects on private investment backed expectations.
- c. effects on the economic value of water rights.
- d. effects on direct, indirect, and cumulative employment.
- e. effects on unemployment rates and the per capita income.
- f. effects on revenue flows to local governments.
- g. effects of local government and school employment losses on income rates.
- h. effects on resource based industries including tourism, recreation, farming, ranching, timber, and mining, specifically focusing on unit cost effects such as the economic value of visitor days, livestock, timber, and crop yield.
- i. effects on other local businesses not directly impacted by resource decisions or plans.
- j. effects on housing, real estate values, and residential energy needs.
- k. effects on opportunities for business expansion.

**4. Assessment of Impacts on Private Property (Takings):** The Environmental Impact Review shall identify effects on property rights and protectable interests in Apache County. As part of this assessment, any of the following may constitute takings:

- a. physical invasion (actual intrusion or land withdrawal).
- b. loss of economic value and investment backed expectations.
- c. loss of private water rights.
- d. loss of customary uses related to public land use.
- e. effects on basic rules of fairness and due process.

**5. Civil Rights Impact Analysis:** Environmental Impact Reviews shall identify civil rights impacts of management alternatives on public lands for each potentially impacted citizen and social class identified in the Forest Service Handbook. A civil rights impact analysis, as part of each Environmental Impact Review should evaluate the following as defined in Forest Service Handbook FSH 1909.17 (Chapter 30):

- a. impacts on lifestyle
- b. attitudes, beliefs, and values
- c. social organization
- d. population
- e. land-use patterns
- f. civil rights

**6. Assessment of Impacts on Laws and Regulations:** The following shall be considered when assessing the impact of alternatives examined in an Environmental Impact Review on existing laws, regulations, plans, and guidelines.

a. effects on the integrated resource planning and management in which County private parties and/or public interests are involved.

b. effects on Federal and State laws and regulations related to multiple use, sustained yield, and range resource management.

c. effects on common law practices on public lands.

**7. Cumulative Effects Analysis:** The cumulative effects of planning decisions shall be analyzed to ensure that there are no cumulative, long-term effects on Apache County's economy, tax base, culture, service delivery, or businesses.

## **SECTION C: EVALUATION OF ALTERNATIVES AND MITIGATION PLANNING**

**1. Evaluation of Alternatives:** Significant effects of the alternatives on the human environment must be identified by the County, along with the mitigation measures. According to Federal regulations, "Agencies shall rigorously explore and objectively evaluate all reasonable alternatives [and] devote substantial treatment to each alternative in detail".<sup>4</sup>

a. For actions which involve unresolved conflicts, all reasonable alternatives must be considered including "no action". The alternatives should explore to the fullest extent possible to find other ways to meet the identified need or achieve the identified purpose while eliminating harmful impacts on the human environment.<sup>5</sup>

b. It must identify the superior alternative and explain why alternatives other than the proposed action were rejected.<sup>6</sup>

c. The evaluation of alternatives must be governed by the "rule of reason". An environmental document must describe a reasonable range of alternatives to the proposed action, or to the proposed location of the proposal, which could feasibly attain the basic objectives of the proposed decision/action, and evaluate the comparative merits of the alternatives<sup>7</sup>.

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<sup>4</sup>40 CFR §1502.14

<sup>5</sup>40 CFR §1502.1

<sup>6</sup>40 CFR §1502.14(a)

<sup>7</sup>Shipley & Associates, NEPA Executive Overview, Bountiful, UT, 1991.

d. The range of alternatives identified by the County must include those that offer substantial advantages to the human environment over the proposed action and may be feasibly accomplished considering **economic, social, physical and technical** factors. Alternatives may not be rejected merely because they are beyond the agency's authority.

e. The preferred alternative/s shall be identified and include appropriate mitigation measures not already included in the proposed action or alternatives.<sup>8</sup>

**2. Mitigation Planning:** For every significant adverse impact identified in an Environmental Impact Review, NEPA requires that agencies must identify and discuss the adequacy of mitigation measures according to the following criteria:

a. Mitigation plans shall identify and avoid or substantially lessen significant side effects of proposed mitigation measures.

b. Mitigation plans shall be detailed and provide realistic alternative measures.<sup>9</sup>

c. Mitigation measures must provide for effective & feasible mitigation. To be effective, a mitigation measure must state the objective of the mitigation measure and why it is recommended, explain the specifics of the mitigation measure and how it will be designed and implemented by identifying measurable performance standards and making provisions for contingent mitigation if monitoring reveals that

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<sup>8</sup>40 CFR §1502.14(f), §1502.16(h)

<sup>9</sup>40 CFR §1502.14(a),(b),(c)



existing standards are not satisfied, identify the agency, organization, or individual responsible for implementing the measure, indicate the specific location of the mitigation measure(s), and develop a schedule for implementation. To be feasible, mitigation measures must be backed by legal authority, be technically, economically, socially, and politically feasible, and exhibit a reasonable time table for implementation.

d. Mitigation measures must be legally enforceable, not just tenuous assurances not within the authority of a lead agency or other relevant agencies to enforce<sup>10</sup>.

e. The Environmental Impact Review must specifically explain how the conditions of a mitigation plan would mitigate the impact and show the effectiveness of the mitigation measure(s) in terms of the resulting impacts<sup>11</sup>

f. The Environmental Impact Review shall detail and explain the effectiveness of mitigation measures in terms of the resulting impacts of management alternatives<sup>12</sup>

g. Federal and State agencies are called upon to include in all mitigation plans, and Apache County shall include a **mitigation monitoring and feedback** process based on specific objectives and performance standards to ensure the

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<sup>10</sup>*Louisiana v. Lee*, 758 F. 2d (5th Circ. 1985)

<sup>11</sup>*The Steamboaters v. Federal Energy Regulatory Commission*, 759 F. 2d 1382 (9th Circ. 1985)

<sup>12</sup>*Northwest Indian Cemetery Protective Association v. Peterson*, 795 F. 2d 288 (9th Circ. 1986).

achievement of mitigation measures during action/decision implementation, provide feedback to agency staff about the effectiveness of their actions, provide learning opportunities for improving mitigation measures on future projects, and identify needs for enforcement before irreversible damage to the human or natural environment occurs.

h. State and Federal agencies are called upon to work with Apache County and develop two-way communications and monitoring to ensure the adequacy of the mitigation and monitoring process. The Apache County Board of Supervisors discourages Federal and State agencies from approving projects with adverse impacts on the human environment when alternatives and/or mitigation measures can substantially eliminate or lessen those impacts. The Board also encourages Federal and State agencies to promote plans and projects which positively impact the human environment.

## **SECTION D: PUBLIC INVOLVEMENT GUIDELINES**

During the preparation of an Environmental Impact Review, Apache County shall provide opportunities for the involvement of Apache County citizens, local governments, schools, utility companies, civic and other community groups, and all economic segments within Apache County, through public hearings and other means the Apache County Board of Supervisors deems appropriate.

Federal (in accordance with NEPA regulations<sup>13</sup>) and State agencies are called upon to coordinate *joint* public involvement activities with Apache County. Any joint public involvement activity undertaken pursuant to this resolution should (1) appraise Apache County citizens of regulations and decisions that may adversely impact them, (2) record the concerns of affected parties, (3) evaluate and provide input in choosing preferred alternatives, and (4) facilitate conflict resolution.

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<sup>13</sup>40 CFR §1506.2(b)(3)

**Appendix 3**  
**Statement of Policy**  
**A Result of Original Public Input Derived From**  
**Public Forums and Written Comments**

This Statement of Policy reflects the desires and concerns of the citizens of Apache County. They were derived from both oral and written comments made during or after public forums convened throughout the County. To allow for maximum input, written comments were accepted for 30 days following the public forums. In addition, meetings were held with business and community leaders to gain their input into the policy directions Apache County should take in public land and resource issues. The public forums were held on the dates and locations identified in figure 1.

For purposes of your consideration and review, the contents of this Appendix reflect as closely as possible the character of the comments you made at the public forums and in your written comments. When the policy plan is formally adopted, statements will reflect the attitudes and concerns of Apache County overall and all comments as recorded in the public forums and written responses will be kept on file in the Planning and Zoning Office as a part of the official record.

## STATEMENTS OF POLICY

### GENERAL

- \* State and Public lands should be identified on the ground (ground-truthed) to reflect mapped information. In other words, make what's happening on the ground match with what's on the maps.
- \* Fines on Federal lands should be controlled locally.
- \* The issue of returning public lands to the state should be explored.
- \* Locals need County to listen to their concerns and speak for them.
- \* Apache County should collect data and rely heavily on local input.
- \* Everyone should use freedoms to vote and attend public hearings.
- \* Federal government should prove their right to own and manage land.
- \* Everyone (including the County) should demand the constitution be adhered to.
- \* Recommend that public lands and resource ownership and management should revert to the State and Local Governments, and the people.
- \* Act to protect the 10th Amendment rights of local citizens.
- \* County personnel, Communities, and Citizens should stand up and be responsible for protecting rights.
- \* Constitution's origins and intent (to serve the people) should be remembered and recognized.
- \* County Citizens should have more meaningful input into the NEPA Process.
- \* Federal issues reflect control of land and ultimately control of people.
- \* Apache County and its citizens should be notified early on issues.
- \* The County should seek earliest possible notification of issues from Federal agencies before public meetings are held on proposed policy and planning decisions, and pass that information on to communities.
- \* Apache County should fight all actions which negatively impact County citizens.
- \* There should be better enforcement of local camping and off-road vehicle restrictions (comment unique to Greer).
- \* An impact analysis should be completed which studies various Federal and State actions that impact specialized areas of Apache County (e.g. Greer, Alpine, Vernon, & Nutrioso).
- \* Local land use patterns and public land use demographics should be an important aspect of decision making.
- \* "Meaningful Input" means input related to potential impacts to the human environment.
- \* Local boards should be established to keep control of land & resource decisions and consideration of data.
- \* Local input should be listened to when Fish and Game makes decisions concerning fishing and other policies effecting recreation and other local economic activity.
- \* Federal and State agencies don't care about how decisions effect the local individuals and economy.
- \* Local citizens should not be told what to do or how to do it by outsiders.
- \* Arizona Game and Fish should not impose unpublicized laws.
- \* Enforcement of land and resource laws should be on a local level, not a Federal level.

- \* There should be better coordination between State and Federal wildlife agencies and the County.
- \* Improve communication between communities, counties state and federal agencies.
- \* Give feedback and notice of pending meetings, issues and decisions.
- \* Land resource management should be done on the County level.
- \* The County should pass an ordinance on local control of property rights and civil rights.
- \* Communications from Federal and State agencies need to be improved.
- \* The County should take back local control where it has the authority to do so.
- \* Apache County should unite with other Counties in protecting local interests.
- \* Apache County should work to convince the Federal government that it is capable of managing public lands.
- \* Request through Congress that grazing fees be paid directly to the county - not to the Federal Government.
- \* County should take a position in opposition to Arizona Game and Fish purchase of private lands.
- \* More disclosure should be done before public purchase of private land.
- \* County should initiate referenda to reverse the use of Heritage Funds.
- \* LET THE LOCALS HAVE INPUT AND PARTIAL CONTROL OVER EVERY FEDERAL AND STATE ENVIRONMENTAL POLICY DECISION.
- \* APACHE COUNTY SHOULD TELL STATE AND FEDERAL AGENCIES THE DESIRES OF LOCAL CITIZENS REGARDING PUBLIC LANDS AND RESOURCES
- \* The County should utilize local expertise as a preferred source of input when trying to solve environmental problems.
- \* A priority should be given to the local community to access data to make decisions on plant, wildlife, etc.
- \* The plan should seek to provide for a substantial legal right to be involved in the Federal decision making process.
- \* Incorporate local values and culture in the plan.
- \* The plan should provide for the protection of individual rights.
- \* County should facilitate data collection to protect custom and culture.
- \* The County should engage in dialog with agencies to express citizens concerns.
- \* The County should work to protect historic right to public land use.
- \* Hold federal and state public meetings in the County in the evenings. (Comment unique to Vernon)
- \* Be vigilant in meeting notices.
- \* Develop summaries of County, State and Federal environmental law and policies.
- \* Develop committees which meet with county staff.
- \* Push for a moratorium on new laws, regulations, and rules until a balance is achieved.
- \* Keep initiatives at the local level only (such as wolves).
- \* Federal, State, and County Agencies should examine impacts on man, livestock and other wildlife carefully before making a management decision.
- \* Social impact of Federal decisions should be examined on a case by case basis.

### Appendix 3-3

## **NATURAL RESOURCES**

- \* Economic development, a healthy environment, and forest animal population can exist harmoniously.
- \* We need a healthy and intelligent use of natural resources.
- \* Land resource management should be done at the County level.
- \* The natural resources of the County need to be conserved to ensure efficient expenditure of public funds and to promote the health, safety, convenience and general welfare of the public.
- \* Access to legitimate mineral claims on public lands is threatened by the Endangered Species Act and other environmental laws and should be protected.

## **GENERAL WILDLIFE ISSUES**

- \* Trapping should be restricted to animal damage control to protect against grazing and erosion problems (e.g. coyote trapping/rabbit population control).
- \* The elk should be managed to reduce adverse impacts on farmers and ranchers.
- \* There should be compensation for elk damage to farms and ranches and others.
- \* There should be a balance between wildlife and man.
- \* Man should come first, but the wildlife shouldn't be ignored.
- \* Additional hunting permits should be given to farmers.
- \* A balance of the elk herd is needed to achieve a balance.
- \* Elk tag surcharges could be made to create a compensation fund.
- \* The elk are out of hand and must be controlled.
- \* Apache County should act to ensure that elk don't overgraze public lands.
- \* While attempting to protect the human environment, Apache County should recognize the value of wildlife.

## **ENDANGERED SPECIES**

- \* Apache County should challenge the Endangered Species Act and Endangered Species Listing & Management.
- \* Wildlife should be considered, but not over man
- \* Give man priority over endangered species.
- \* The most endangered species is man.
- \* Man deserves a stronger consideration in the Endangered Species Act equation, and the County should strongly promote this.
- \* The wants, desires, dreams, goals, customs, economy and livelihoods of the people must be regarded as more important than animals or plants.
- \* Caution should be used when attempting to fix endangered species problems that don't necessarily need fixing.
- \* Apache County should fight to ensure that if wolves are reintroduced, ranchers and others are compensated.
- \* The suspension of trout stocking for an endangered minnow is endangering local economies and should be stopped.

- \* Apache County should have input in Endangered Species Policies.
- \* Arizona Game & Fish and the United States Fish and Wildlife Service should listen to and act local views and concerns.
- \* Apache County should seek to influence Arizona Game & Fish and the United States Fish and Wildlife Service when local views are in opposition to proposed State and Federal policy.
- \* Protect endangered species through use of modern technology.
- \* Protect the species, but not at the expense of local industries.
- \* Local rural concerns should be considered when re-introducing endangered species.
- \* Need to prevent species from being listed which harm community and economic stability.
- \* Mexican Wolves do not know the boundaries of public land and should not be reintroduced.
- \* The reintroduction of the wolf is not a high priority and the County should have the last say.
- \* The State and Federal government should not micro-manage every species and subspecies.
- \* Add the human factor to endangered species listings, designations, and recovery plans.
- \* The County should make formal statements to the Federal government to insist on control (reform) of the Endangered Species Act.
- \* The 9th and 10th Amendments should be adhered to as they relate to Endangered Species laws.
- \* The County should take a stand through litigation insisting on adherence to the 9th and 10th Amendments (regarding the Endangered Species Act and other environmental laws).
- \* A higher priority needs to be given to people than to the endangered species.
- \* We need to look at the impact the wolf and the other species are going to have on the people.



## **FIRE**

- \* The forests are not being managed properly, therefore, there is a very high risk of fire.
- \* Apache County should draw attention to forest fire hazards created by poor forest health conditions.
- \* Bad forest management decision have resulted in overgrowth, which will cause serious crown fires in the forest.
- \* To reduce fire hazards, wood cutting and hauling should be allowed in more areas, including primitive areas.
- \* Encourage the use of logging and thinning to reduce fire hazards.
- \* Locals should have an input on fire restrictions in campgrounds.
- \* Locals should have an input on grass burning.
- \* Grazing helps reduce the risk of fire and should continue.
- \* There is a very strong possibility of catastrophic fires, which must be dealt with.
- \* More *local* facts surrounding timber management should be considered in fire policy decisions.
- \* Decisions regarding reduction of forest fire risk should be based on local conditions.
- \* Fire would have an adverse effect on irrigation systems in forest areas.
- \* By protecting endangered species, fire hazards are increased.
- \* Fire based management is not economically productive. We should harvest pine trees rather than allow them to burn.
- \* There are safety concerns surrounding wild forest fires and controlled fires burning out of control (comment unique to Vernon).
- \* Woodcutting should be allowed in the slash piles as a means of cleaning out the forest.
- \* Smoke from forest fires threatens homes and causes air quality problems.

## FOREST HEALTH

- \* Government should listen to forest health statistics provided by local individuals.
- \* Rationale for land use being followed by the Forest Service is not consistent with overall ecosystem health.
- \* Elk are destroying the ecosystem balance of our forests.
- \* Open up primitive and wilderness areas to treat diseased tree stands by clearing or thinning to reduce risk of defoliation and fire hazard.
- \* Locals have more at risk (homes, businesses, and communities) and can take better care of public lands than non-locals.
- \* The forest is part of the balance that brought the people to Greer, and should be maintained in a healthy state.
- \* Logging is an important scientific tool for managing a healthy forest.
- \* The forest floor and forest tree stands need to be cleaned and thinned.
- \* We desire a balance between preservation and production.
- \* Forest grasslands are diminishing.
- \* The multiple use concept should be supported as a means to restore forest health.
- \* Burning good timber or allowing it to burn is wrong, it should be put to beneficial use.
- \* Federal, State, and County agencies need to keep both short term and long term views in perspective when planning and managing for forest health.
- \* Discourage wilderness areas that exclude all uses.
- \* Promote proper management.
- \* Support a balance of forest/timber usage which conserves wildlife as well as promotes economic stability.
- \* We need to maintain the forest in a sustainable state.
- \* Forest safety and health is being jeopardized by current policies.
- \* The multiple-use policy need to be revitalized.
- \* The forests should be harvested to control disease and death of forest flora.
- \* The forests need to be kept in an ecologically sustainable state.
- \* The forest is growing faster than it is cut and is a danger to public health and safety.
- \* The resources are abundant enough to use and replace.
- \* Conservation use and excessive proliferation of wildlife will result in additional negative impacts on the federal land.
- \* Multiple use of public lands should be kept in place for the health of the land, for the benefit of wildlife and cows alike, and for the health of the forest.
- \* Sound scientific management of forest and range should be reinstituted.
- \* The ranchers and loggers are not the ones spoiling the forest.

## **RANGELAND HEALTH**

- \* Federal and State agencies should return to the locally driven multiple use concept of rangeland management.
- \* Return to a balance between man and nature on public rangelands.
- \* Grazing policies should be modified to more closely reflect local ranchers' views.
- \* Encourage more technology and modern techniques: rotational use.
- \* Encourage more physical responsibility for use of public lands policy.
- \* Grazing issues should be under local control.
- \* We (the ranchers) are better stewards of the land than the government.
- \* Grazing land management control should be used to most efficiently protect both economic productivity and ecosystem health.
- \* We want local control of rangeland management to ensure maximum resource sustainability.
- \* The County should work with Federal and State agencies to deal with the problem of grazing areas being taken over by Juniper.
- \* Enhance rangeland productivity for both cattle and wildlife by preventing overgrazing and soil deterioration.
- \* Stability of the livestock industry is dependent upon the public range conditions and trends.
- \* Apache County should work with State and Federal agencies to provide an inventory and categorization of public rangelands on the basis of range conditions and trends.
- \* Encourage the use of available herbage for animal production on a consistent basis to ensure that old herbage growth does not destroy the forage yield.
- \* Wildlife such as elk and deer cause much more irreparable damage to immature grasses and endangered plants species than livestock.
- \* Substantial increases in wildlife populations on public lands confirm that wildlife habitat has increased under grazing management.
- \* Ranchers are good stewards if given the opportunity.
- \* The forests should be kept open for cattle, but managed for use also.

## ECONOMICS

- \* Primitive use designations and the Endangered Species Act negatively impact local ranching economies.
- \* Apache County should take a firm stand to ensure that grazing policies adhere to the wise multiple-use concept.
- \* Insist that Federal, State, and County agencies do economic impact assessments before they implement policies (e.g. fish stocking, road closures, grazing).
- \* Government has used environmental laws and policies to stifle local economic systems.
- \* Locals are economically devastated with no local input.
- \* The loss of forest fees due to reduced logging have negatively impacted local schools.
- \* Businesses have deteriorated as a result of the decline in the local timber and ranching industries.
- \* Economic stability is essential to protect the quality of life and social stability of Apache County communities.
- \* Not enough consideration is being given to the issue of the adverse economic impact of policy decisions.
- \* The loss of tax revenue due to the deterioration of our natural resource base industries is hurting our schools.
- \* Jobs are a primary concern and issue, but not at the expense of the environment (comment unique to Concho).
- \* Apache County should insist that the Federal and County agencies do economic impact assessments before the Federal government implements any decisions.
- \* Local residents have the most at stake & should be given some significant role in the decisions made which may affect their livelihood & quality of life.
- \* A higher percentage of funds from Federal forest and rangeland fees should go to the County for local use.
- \* We should encourage the use of lottery funds for the repairing infrastructure.
- \* Decisions related to the Endangered Species Act have caused a drastic decline in local economies.
- \* Supply and demand shifts for timber resulting from environmental laws is adversely impacting the building trades.
- \* Fees from public lands should go to local needs such as health care and not to the Federal treasury
- \* There is more economic benefit from private ownership than government control.
- \* Local control of decision making on State and Federal lands is needed to allow people to continue making a living wage.
- \* There should be compensation for regulatory decisions which negatively impact individual economic conditions.
- \* Make the government accountable for the economic effects of policy decisions.
- \* Ongoing attacks on the agricultural/timber industries are reducing the number of jobs in Apache County.
- \* Economic prosperity for Apache County comes from agriculture, mining, ranching, timber, fishing, hunting, other recreation and manufacturing.
- \* Too much private land is being taken off the tax rolls.
- \* The County Land Use Policy Plan should emphasize those policies and uses which protect the County tax base and economic stability of the County and communities.

- \* Most livelihoods in our area are directly or indirectly related to ranching or logging.
- \* We need to plan and provide for the future growth and improvement of the health and economic productivity of public lands and resources.
- \* Those who oppose grazing in the West have also proposed to raise the grazing fee over the year 1995-1997 from \$2.75 to \$3.96 per AUM and providing for an adjustment of the fee formula in the event that separate final regulations prescribing qualification criteria for an incentive-based fee are not completed. This is unacceptable.
- \* Fee increases will bankrupt most small ranches and make even medium to moderately large ranching operations unprofitable because most family ranches only have about a 1% return on investment and the additional fee will push them over the edge from break even to "broke".
- \* Apache County should fight the raising of grazing fees.
- \* About 20% of the calves that go into the Nation's feed lots and over 50% of the marketable lambs come from public lands states in the West.
- \* In many western communities, livestock farming and ranching operations continue in their traditional role of providing the primary economic base for small rural communities, including many in Apache County.
- \* Rural communities in Apache County are dependent upon the public lands to generate revenue to help pay for roads, schools, and other services.
- \* Change the direction so that man's economic need come first. At the same time, the economic value of fish and wildlife on public lands should be recognized.

## **RECREATION**

- \* Recreational users feel they are next in line to be booted out, because of limiting camping, fishing and public use.
- \* Apache County should act to preserve public lands recreational use.
- \* There is a concern about abusive recreational use and possible damage of land by visitors to Apache County.
- \* Recreational areas are poorly managed by the Federal agencies.
- \* Local input should be listened to when Arizona Game and Fish makes decisions concerning fishing & other policies impacting recreation; because it affects the local economy.
- \* Vandalism and poor quality of recreation sites in our local area is an aesthetic and economic problem.
- \* Resources are abundant enough to balance species conservation, economic use, and recreational use.
- \* Access to public lands for recreational use should be maintained.

## **LOGGING**

- \* Loss of logging has destroyed forest ecosystem balance and destroyed local livelihoods.
- \* Government decisions have caused less logging.
- \* When the loggers were involved, the forest was better, there was a better balance.
- \* Apache County should be actively involved in putting loggers back to work and balancing logging needs with ecosystem needs.
- \* More timber should be harvested to offset forest tree growth.
- \* The County should support logging.
- \* The County should take an active role in publicizing timber sales and other decisions that effect all land use.
- \* The Forest Service should consult with the County before implementing firewood policies.
- \* Good firewood should not be burned by the Forest Service, thus forcing local individuals to cut inferior wood.
- \* A reduction in building supplies due to a lack of harvested timber has caused an increase in building costs.
- \* The local economy should be considered before logging restrictions are imposed.
- \* The County should lead demographic, projected economic impact, and cultural impact data collection.
- \* Logging helps the forest grow, and helps to produce feed for the cattle, deer and elk.
- \* Logging need to be controlled from the local level.
- \* Controlled logging does not affect wildlife adversely.
- \* County should take active role in publicizing timber sales and other decisions that effect all land use.

## **WOODCUTTING**

- \* Woodcutting restrictions should be reduced.
- \* Free woodcutting for private homeowners should be instituted as a means of clearing the forest flora.
- \* Encourage private citizen access of downed wood by Forest Service in lieu of controlled burn.
- \* Local wood cutting should be more widely permitted.

## **RANCHING**

- \* Economic impact of grazing policies should be considered.
- \* In all management considerations, the non-exclusive nature of grazing permits as a positive economic benefit to Apache County and its communities should be considered.
- \* Water improvements on public rangelands should be compensated.
- \* Ranchers should be compensated for range improvements.
- \* Apache County should act to protect the continuation of grazing permits rather than allowing agencies to put them on the open market.
- \* We want a protection of local grazing rights.
- \* The County should explore whether grazing fees could be paid directly to the County. If not, the County should pursue through Congress or the courts the right to do so.
- \* Ranchers should be compensated for losses resulting from regulations.
- \* The culture and customs of area ranchers need to be taken into consideration when making State or Federal policy.
- \* The fencing of waters traditionally used by ranchers on public lands has been and continues to be economically damaging and should be stopped (e.g. Crescent Lake).
- \* A vast majority of public & private lands are only suitable for grazing, and should continue to be used for that purpose.
- \* Traditional beneficial use of rangelands for wildlife and cattle should be maintained.
- \* The County should act to protect the rights of local ranchers.
- \* The State should reimburse grazing permittees for land improvements.
- \* Cattle keep the grass cropped, promoting new plant growth for wildlife.
- \* Ranchers not only purchase their leases, they build fences, put out salt, and develop watering places which wildlife use, contributing to the well-being of wildlife.
- \* Legal and historical rights of public land grazing permittees must be protected.
- \* Grazing fee rates should not be raised using the Rangeland Reform '94 grazing fee formula.
- \* Don't protect the species at the expense of the ranching industry.
- \* Develop a sliding scale fee formula based on range feed conditions.
- \* Current regulations hinder economic productivity of public land ranching, these should be considered before raising fees.
- \* Endangered Species issues, such as the Spotted Owl and the Mexican Wolf, impact heavily on economic uses of the local forests and rangelands.
- \* Ease restrictions on livestock feeding on public lands.

## **WATER RIGHTS**

- \* Federal total control of water is against people's rights.
- \* Apache County should stand behind affirmation and preservation of private water rights on public lands.
- \* Water from Apache County shouldn't be given to Phoenix and Tucson.
- \* Water rights of local citizens should be protected.
- \* Apache County should act to prevent the erosion of local water rights and usage for the sake of urban expansion.
- \* Apache County should act to protect local water rights from going to the urban areas.
- \* The County should stop water transfers.

## **WATER AND RIPARIAN**

- \* Water usage and quality should be improved by utilizing modern technology to enhance service delivery (comment unique to Concho).
- \* The high cost of clean water laws and regulations should be reduced.
- \* The County should seek to change Clean Water and Safe Drinking Water Laws to eliminate the high costs and lengthiness of Clean Water compliance.

## **PUBLIC AGENCY ACTIONS AFFECTING PRIVATE LAND USE**

- \* The State and Federal government is not giving enough information when making policies which impact private land owners.
- \* Local land use patterns and public land use demographics should be an important aspect of decision making.
- \* Local governments are best equipped to determine how land management decisions impact local people.
- \* Apache County should work to ensure its citizens have a strong influence to prevent State & Federal agencies from controlling the lives and futures of local citizens.
- \* Local citizens should be allowed to continually provide input on issues affecting public lands and resources in Apache County.
- \* There simply is not enough private land to be financially "independent" from the fees derived from forest lands.



## **PROPERTY RIGHTS**

- \* The Federal Government has no right to seize private land without just compensation.
- \* Apache County and private land owners should be notified, and private land owners should be allowed to give permission, before there is Federal or State government intrusion onto private property.
- \* Improvements on public lands should be treated as private property/investment and compensated.
- \* Grazing lands should not be fenced off without significant local input or notification.
- \* Apache County should encourage the privatization of public lands.
- \* We need an ordinance on local control of property rights and civil rights.
- \* Rural property owners should be accorded the same respect and rights as those in urban and suburban areas.
- \* Private property ownership rights must be protected, enhanced where necessary and respected.
- \* Any wildlife managed by the Arizona Game and Fish Department or the U.S. Fish and Wildlife Service must not be allowed to overrun and deplete forage on private property or public lands.
- \* Federal and State agencies should stick to the 5th Amendment in protecting the private property and compensation rights of individuals on private & public lands.
- \* Apache County should work to protect private access & usage rights on public lands against State and Federal regulations.
- \* Bring the Department of Environmental Quality under local control.
- \* Permission should be obtained from the permit owner or land owners before Federal or State employees enter the property for:
  1. surveys
  2. tree Cutting
  3. fencing
  4. and any other proposed government action or activity.

## **PERMIT RIGHTS**

- \* Locals are not informed on all land permits (uses) when buying a permit.
- \* Individuals' (accessibility) costs associated with permits should be considered.
- \* Land owners should be notified when a resurvey of private or permitted land is taking place (comment unique to Sanders).

## **LAND PURCHASES AND EXCHANGES**

- \* There should be prior notification of land exchanges to adjacent and nearby property owners and lessees.
- \* Local citizens should have input before any land swaps occur.
- \* The County should ensure that the NEPA process is applied to all U.S. Forest Service land swaps or conversions of private property to public property.
- \* The Policy Plan needs to restrict land transfers.
- \* The County should work to improve the amount of private land in our boundaries.
- \* The public should be notified about Federal land exchanges before they happen.
- \* We should question the governments right to own property.
- \* We should oppose any Federal or State agency's purchase of private lands.
- \* We should be notified of sales or transfers of land with a notice of intended use before a sale or transfer is finalized.
- \* The County needs to take a position against Federal and State agency purchases of riparian areas.
- \* There should be prior notification of land purchases or exchanges to adjacent and nearby property owners.
- \* Apache County should question and challenge Federal land exchanges where appropriate.
- \* State & Federal agencies who wish to remove land from private use should be required to trade either State or Federal land of equal value to avoid erosion of the tax base.

## **ACCESS TO PUBLIC LANDS**

- \* Forest roads should not be blocked.
- \* Easement rights of permittees and private land owners should be continued.
- \* Citizens with private land holdings which require access across Federally controlled land should be allowed continued access to those land holdings.
- \* Access should not be closed off to the woods.
- \* Maintain public lands for public use, including State lands.
- \* Access thru public lands to private or leased lands should be guaranteed.
- \* The County should oppose forest road closures and maintain traditional right of ways to public lands and across them to private lands.
- \* The focus should be preventing denial of access by Federal agencies.
- \* There must be a way to cross private land to get to public land.
- \* Forest access needs to be improved.
- \* Easy access should be provided to forest slash piles.
- \* There should be less fencing of public lands.
- \* The forests should be kept open for cattle.
- \* The National Forests should be kept open for public access and use.
- \* Open up State Trust Lands to public use.

## CULTURE OF APACHE COUNTY

- \* The increase in Federal regulations and policies have diminished our quality of life.
- \* We believe in independence and local control of natural resources.
- \* The "we take care of our own" mentality should be preserved.
- \* A spirit of Constitutional freedom is important to maintain.
- \* We love and appreciate land and wildlife.
- \* There is a long history of settlement in Apache County by ranchers and loggers.
- \* The preservation of logging and ranching as ways of life in Apache County are important to preserve the culture of the County.
- \* Locals are more knowledgeable about land and resource issues and have a personal stake in them.
- \* Pristine scenic beauty is a desirable attribute to protect and is important to the local quality of life.
- \* Apache County's rural lifestyle is based on the following types of land and resource usage:
  1. Ranching
  2. Logging
  3. Mining
  4. Woodcutting
  5. Recreation (fishing, hunting, hiking, camping, etc.)
- \* Citizens care about the natural resources, but also desire their ability to maintain a high quality of life.
- \* Maintaining a healthy, aesthetically pleasing forest is an important quality of life that should be preserved (comment unique to Greer).
- \* Federal laws tell us to take into consideration local cultures, customs and traditions.
- \* Apache County should act to preserve local cultures, customs, and traditions.
- \* The County, State, and Federal agencies should take the historical tradition of ranching into account when making decisions.
- \* An important custom and tradition in Apache County is ranching.
- \* The small community "feel" is an important quality of life the County should seek to maintain.
- \* Freedom to use (not abuse) public lands and resources without the government interfering is an important quality of life that should be preserved.
- \* Logging has a three (3) generation history in Apache County, and is an important part of our culture.
- \* Protection of the quality of life by involving the Counties rural communities in public land decision-making should be provided for.
- \* An important part of County residents' way of life is their interdependency with natural resource use on public lands, including grazing, logging, woodcutting, and recreation.
- \* A priority should be given to the local community to access data to make decisions on plant, wildlife, etc.
- \* No decisions should be made before the economy and the local culture is considered.

- \* The uses and activities of timber production and mineral extraction which contribute to the cultural diversity of the area are an important part of local tradition, and should be emphasized and maintained at all costs.
- \* Ranching is an important way of life.
- \* Clean air and a rural lifestyle are important qualities of life to maintain
- \* Fishing and Hunting opportunities on public lands are an important quality of life